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The Orissa Industries (Facilitation) Act, 2004

Act 14 of 2004

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ORISSA ACT 14 OF 2004

THE ORISSA INDUSTRIES (FACILITATION) ACT, 2004

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ORISSA ACT 14 OF 2004

***THE ORISSA INDUSTRIES (FACILITATION) ACT, 2004**

[Received the assent of the Governor on the 24th December, 2004, first published in an Extraordinary issue of the *Orissa Gazette*, dated the 31st December, 2004 (No. 1857)]

AN ACT TO PROVIDE FOR THE CONSTITUTION OF CLEARANCE AUTHORITIES AT THE DISTRICT AND STATE LEVEL FOR SCRUTINY, CONSIDERATION AND FINAL DISPOSAL OF THE APPLICATIONS OF THE ENTREPRENEURS PROPOSING TO START INDUSTRIES IN THE STATE AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Legislature of the State of Orissa in the Fifty-fifth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement

1. (1) This Act may be called the Orissa Industries (Facilitation) Act, 2004.
- (2) It shall extend to the whole of the State of Orissa.
- (3) It shall come into force at once.

Definitions.

2. In this Act unless the context otherwise requires,—
 - (a) 'Authority' means any statutory body, Corporation or other Authority established by the Government, which are entrusted with the powers or responsibility to grant or issue clearances;
 - (b) 'Clearances' means supply of No Objection Certificates, allotments, consents, approvals, permissions, registrations, enrolments, licences or the like, by the Departments of State or Central Government, Authorities or any other bodies;
 - (c) 'Department' means a Department of the State Government;
 - (d) 'District Level Single Window Clearance Authority' means an Authority constituted under Section 5 of this Act;
 - (e) 'Entrepreneur' means a person or body of persons or a Company, having majority portion of investment or controlling interest in an industry or enterprise;
 - (f) 'Government' means the State Government of Orissa;
 - (g) 'High Level Clearance Authority' means a Committee constituted under Section 3 of this Act;
 - (h) 'Industrial Policy Resolution' means the Policy issued by Industries Department from time to time;
 - (i) 'Industrial Unit' means any industrial undertaking located inside the State and engaged in any manufacturing or servicing activity as detailed in the Industrial Policy Resolution from time to time;
 - (j) 'Nodal Agency' means the Nodal Agency at the State Level or at the District Level constituted under Section 8 of this Act;

*For the Bill, See *Orissa Gazette*, Extraordinary dated the 31st December 2004 (NO. 1857)

- (k) 'Notification' means a notification published in the *Orissa Gazette* and the word 'notify' will be construed accordingly;
- (l) 'Prescribed' means prescribed by rules made under this Act; and
- (m) 'State Level Single Window Clearance Authority' means a Committee constituted under Section 4 of this Act.

CHAPTER II

CONSTITUTIONS AND FUNCTIONS OF DIFFERENT CLEARANCE AUTHORITIES

High Level
Clearance
Authority.

3. (1) Government may, by notification in the Official Gazette, constitute from time to time, a Committee known as the High Level Clearance Authority under the Chairmanship of the Chief Minister consisting of such other *ex officio* members, as may be specified therein which shall examine and consider proposals for Industrial and other Projects to be set up in the State where the amount of investment is rupees fifty crores or more or such higher amount as may fixed by the Government from time to time and shall have the power to direct concerned Departments or Authorities to issue the required clearances within the specified time limit subject to compliance of the provisions of the applicable Acts and Rules or Orders and Instructions in force by the Industrial Unit.

(2) The members of the Authority under this Section shall personally attend the meetings and in case of exigencies may depute a senior level official with written authorisation to take appropriate decisions in the meetings.

(3) The Authority under this Section shall,—

- (a) meet at such times and places and shall adopt such procedures to transact its business as may be prescribed;
- (b) examine the proposals brought before it, for setting up Industrial Units; and
- (c) take decisions and communicate its decisions to the entrepreneurs and the Departments or the Authorities concerned within the prescribed time limit.

(4) The Authority under this Section shall be the final Authority in granting approvals for the projects placed before it and the approvals given by it shall be binding on all the Departments or Authorities concerned and such Departments or Authorities shall issue the required clearances within the prescribed time limit.

State Level
Single Window
Clearance
Authority.

4. (1) Government may, by notification in the Official Gazette, constitute, from time to time, a Committee under the Chairmanship of the Chief Secretary known as the State Level Single Window Clearance Authority hereinafter in this Section, referred to as the said Authority consisting of such other *ex officio* members as may specified therein.

(2) The said Authority shall examine and consider proposals for industrial and other projects to be set up in the State where the amount of investment is rupees three crores or more but less than rupees fifty crores or such amount as may be fixed by Government, from time to time.

(3) Every member of the said Authority shall personally attend the meetings and in case of exigencies he may depute a senior level official with written authorisation to take appropriate decisions in the meetings.

(4) The said Authority may exercise the following powers and shall perform the following functions, namely :—

- (i) to meet at such times and places as the Chairman of the said Authority may decide and transact business as per the procedure as may be prescribed;
- (ii) to review and monitor the processing of applications by the competent authority, and to forward the orders of the competent authority to the applicant;
- (iii) to inform the applicant of the date on which the application was received by the competent authority and the date on which such application may be deemed to have been approved in the case of deemed approval;
- (iv) to review and monitor the functioning and performance of District Level Single Window Clearance Authorities; and
- (v) to exercise such other powers and perform such other functions as may be prescribed.

(5) The said Authority shall be the final authority in granting approvals on proposals for the projects under sub-section (2) placed before it and the approvals given by it shall be binding on the Departments or Authorities concerned and such Departments or Authorities shall issue the required clearance within the specified time limit subject to compliances of the provisions of the applicable Act or Rules or Orders or Instructions by the Industrial Unit.

(6) The said Authority shall examine the proposals brought before it for setting up Industrial Units and other projects and shall take a decision and communicate its decision to the entrepreneurs and the Departments or Authorities concerned within the prescribed time limit.

District Level
Single Window
Clearance
Authorities.

5. (1) Government may, by notification in the Official Gazette, constitute, a Committee in each district known as District Level Single Window Clearance Authority hereinafter in this Section, referred to as District Authority, under the Chairmanship of the Collector of such district consisting of such other *ex officio* members as may be specified in the notification and such authority shall examine and consider proposal for industrial and other projects to be set up in the respective districts, where the amount of investment is less than rupees three crores or any amount fixed by Government from time to time.

(2) The District Authority shall exercise the following powers and perform the following functions, namely :—

- (i) to meet at such times and places as the Chairman of the District Authority may decide and transact business as per the procedure as may be prescribed;
- (ii) to review and monitor the processing of applications by the competent authorities and to forward the orders of the competent authorities to the applicant;

- (iii) to issue deemed approval as provided in Section 11 of this Act;
- (iv) to exercise such other powers and to perform such functions as may be prescribed.

(3) Every member of the District Authority shall attend the meeting convened under clause (i) of sub-section (2) personally and in case he is unable to attend the meeting, he may depute a senior level officer with a written authorisation to take appropriate decision in the meeting.

(4) The District Authority shall examine the proposals brought before it for setting up Industrial Units and other projects in its respective Districts and shall take decision and communicate its decision to the entrepreneurs and the Departments or Authorities concerned within the prescribed time limit.

(5) The District Authority shall be the final Authority in granting approvals for the projects placed before it and the approvals given by the District Authority shall be binding on all the Departments or Authorities concerned and such Departments or Authorities shall issue the required clearances within the specified time limit, subject to compliance of provisions of the applicable Acts and Rules or Orders or Instructions by the Industrial Units.

Special
Committees.

6. (1) Government may, by notification, constitute Special Single Window Clearance Committees for any specified purpose, specified area or specified sector and delegate to them such powers and functions as Government may deem fit.

(2) A Special Committee shall consist of such number of *ex officio* members of whom one shall be nominated by Government as Chairman by way of issuing notification.

Appeal.

7. Any person aggrieved by the decision of the High Level Clearance Authority, State Level Single Window Clearance Authority or District Level Single Window Clearance Authority may, within thirty days from the date of receipt of communication of the decision of the Authorities, appeal to the Appellate Authority as may be prescribed.

Appointment
of Nodal
Agencies.

8. (1) Government may, by notification in the Official Gazette, constitute a Nodal Agency at the State Level and the District Industries Centres shall be the Nodal Agencies at the District Level, to undertake industrial promotion activities and to facilitate investors.

(2) Functions of the State Level Nodal Agency shall be as follows :—

- (i) investment promotional activities at the State, National and International level;
- (ii) State's image building to attract investments;
- (iii) investment climate improvement exercises;
- (iv) render necessary assistance and feed back in policy formulation for industrial progress;
- (v) guide and assist entrepreneurs to set up industries in the State;

- (vi) prepare and regularly update an information booklet providing complete particulars relating to—
 - (a) State and Central Industrial Policies;
 - (b) Department or Authoritywise procedures to obtain the required clearances;
 - (c) general information on industrial status and advantages existing in the State;
 - (d) salient features of applicable Acts and Rules in relation to Industry, Labour, Safety, Welfare, Pollution Control, Taxes, Duties, etc.; and
 - (e) any other matter useful to the entrepreneurs;
 - (vii) issue and receive Combined Application Form from entrepreneur and arrange required clearances from the Departments or Authorities concerned, within the specified time limit;
 - (viii) provide secretarial and other support services to High Level Clearance Authority and State Level Single Window Clearance Authority;
 - (ix) set up task force consisting of senior level representatives from key Departments and Authorities to review periodically the status of implementation of the Projects and to sort out problems, if any.
- (3) Functions of the District Level Nodal Agency shall be as follows :—
- (i) investment promotional activities at the district level;
 - (ii) District's image building to attract investments;
 - (iii) investment climate improvement exercises;
 - (iv) guide and assist entrepreneurs to set up Industries in the District;
 - (v) issue and receive Combined Application Form from entrepreneurs and arrange required clearances from the Departments or Authorities concerned, within the specified time limit;
 - (vi) provide secretarial and other support services to District Level Single Window Clearance Authority;
 - (vii) Set up a task force consisting of representatives from key Departments or Authorities to review periodically the status of implementation of the projects and to sort out problems, if any.

Combined
Application
Form.

9. (1) Government may prescribe the Combined Application Form for the use of entrepreneurs whose projects are to be approved by any of the clearance Authorities as an alternative to the existing forms prescribed under any applicable Acts or Rules or Orders or Instructions for obtaining the required clearances and all Departments and Authorities concerned shall accept the Combined Application Form for processing and issue of required clearances.

(2) Entrepreneurs, intending to set up industries may submit the application, duly filled in, along with required documents, either to the State Level Nodal Agency or to the District Level Nodal Agency, depending upon the amount of investment proposed to be made in setting up the industries.

Self
certification.

10. (1) Every entrepreneur shall furnish a Self certification at the time of submitting the duly completed application form to the Nodal Agency, undertaking that he would comply with the provisions of applicable Acts and Rules or Orders or Instructions.

(2) Such undertaking shall be furnished in the prescribed format on a non-judicial stamp paper of the value equivalent to a security bond or as fixed by the Government from time to time.

(3) All Departments or Authorities concerned shall accept the self certification for the purpose of issuing the required clearances.

(4) Entrepreneur who fails to comply with the undertaking as furnished in the self certification, shall be liable to pay fine amounting to rupees five thousand for the first such offence and rupees ten thousand for the second offence and if the offence is repeated thereafter such entrepreneur shall be liable for legal action as specified under the relevant provisions of applicable Acts and Rules or Orders or Instructions.

Deemed
approval.

11. (1) Every Department or Authority concerned, shall issue the required clearances after processing the application as required under the applicable law within the specified time limit and in case of failure to issue the required clearances within the specified time limit, such clearances shall be deemed to have been issued and the entrepreneurs may proceed with the implementation of the project.

(2) The deemed approvals shall continue to be in force until the formal clearance is issued by the Departments or Authorities concerned.

(3) The Nodal Agency shall communicate in writing to the entrepreneurs allowing the deemed approval as per the provision and a copy marked to the Department or Authority concerned.

(4) In the eventuality of delay which results in issue of deemed approval, the Heads of the Departments or Authority shall be liable for imposition of penalty as prescribed.

Rationalisation
of inspection.

12. (1) Inspections under the provisions of applicable Acts and Rules or Orders or Instructions by different Authorities shall be conducted jointly with the Office of the Labour Commissioner, Chief Inspector of Factories and Boilers and Orissa State Pollution Control Board, once in a year and such inspections shall be based on random selection and shall be organised in the manner as may be prescribed.

(2) Inspections against specific complaints may be conducted with authorisation by the Heads of the Departments and inspections in respect of pollution and safety aspects may be conducted as required under the relevant Acts and Rules or Orders or Instructions.

Power to
make rules.

13. Government may, by notification in the Official Gazette make rules for effective implementation of the provisions of this Act.

Direction by
Government.

14. Government may, from time to time, issue policy directions as deemed necessary to the clearance Authorities for the purpose of carrying out the objective of this Act and the concerned clearance Authority shall be bound to follow and act upon such directions.

CHAPTER III

MISCELLANEOUS

Exemption. 15. Government may, by notification, exempt any clearances from any of the provisions of this Act.

Offences and Penalties. 16. Where an offence under this Act has been committed with the consent or connivance of, or that commission of the offence is attributable to any neglect on the part of, any Director, Manager, Secretary or other officer authorised in that behalf of the Company, such Director, Manager, Secretary or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation — For the purposes of this Section,—

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "Director" in relation to a firm means a partner in the firm.

Overriding effect of the Act. 17. Save as otherwise provided in this Act the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other State Law or Rules or Orders or Instructions for the time being in force or any custom or usage or any instruments having effect by virtue of any such law.

Protection of action taken in good faith. 18. No suit or legal proceedings shall be instituted against, or damage claimed from, the clearance authorities or members or employees of such authorities for anything, which is in good faith, done or intended to be done, or for any order passed in good faith, in pursuance of this Act and the Rules framed thereunder.

Power to remove doubts and difficulties. 19. If any doubt or difficulty arises after the commencement of this Act or otherwise, in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with the provisions of this Act which appears to it to be necessary or expedient for the purpose of removing the doubt or difficulty.